IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CIVIL WRIT PETITION NO. 2357/2004

RAMANAND SINGH Vs. STATE OF RAJASTHAN & ANR.

DATE: 10.07.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. D.P. Sharma for the petitioner.
Mr. B.S. Chhaba, Addl. GA for the State.

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The petitioner was initially appointed on the post of Urban Extension Educator Family Planning on 18.11.1968. Thereafter the petitioner at his own request that he is unable to perform the duties at Urban Extension Family Planning as he is suffering from serious ailment, he was transferred in Social Welfare Department in the year 1972 and retired from the post of District children Officer in July, 2001.

This writ petition has been filed by the petitioner seeking writ order or direction directing the respondents to consider the services rendered by the petitioner in the Family Planning Department from his initial appointment i.e. 18.11.68 for the purposes of granting selection scale with all consequential benefits.

It is also contended that the definition of same post mentioned in proviso 5 of para No. 3 of the Circular dated 17.02.98 issued by the Government of Rajasthan, Finance Department (Rules Division) and the word mentioned as the same designation may be declared arbitrary.

I have gone through the aforesaid Circular dated 17.02.98. The short controversy is whether the petitioner is entitled to get the benefit of selection scale to be counted w.e.f 18.11.68, the date of initial appointment of the petitioner in Family Planning Department as the respondents have not counted the services rendered by the petitioner in Family Planning Department and only counted from the year 1972, when the petitioner was transferred from Family Planning Department to Social Welfare Department with the approval of the GAD Department.

The proviso III to Item-3 of the aforesaid Circular dated 17.02.98 reads as under:-

> "Provided further also that in case of an employee who has been transferred from one department to another department or from one Appointing Authority to another Appointing Authority within the same Department in public interest or at his own request or while serving in one department of the State Government is recruited directly in other department on the same post,

> the service of nine, eighteen or twenty seven years, as the case may be, shall be counted for the purpose of grant of Selection Grade from the date of initial regular appointment on the same post in accordance with the provisions contained in the relevant recruitment rules. The term 'same post' for this purpose shall mean post carrying the same designation and pay scale.”

Further in this Proviso, the term 'same post' has been defined for this purpose and 'same post' mean post carrying the same designation and pay scale.

It is not disputed that if the designation is changed then pay scale is changed. Since designation has been changed, therefore, in view of the circular dated 17.02.98, the past services of the petitioner have not been counted for the purposes of granting selection scale. So the petitioner was denied the benefit of circular as the Proviso provides that in case of an employee who has been transferred from one department to another department or from one Appointing Authority to another Appointing Authority within the same Department in pubic interest or at his own request or while serving in one department of the State Government is recruited directly in other department on the same post, then in such eventuality, the service of nine, eighteen or twenty seven years, as the case may

be, shall be counted for the purpose of grant of Selection Grade from the date of initial regular appointment on the same post in accordance with the provisions contained in the relevant recruitment rules.

Here in the instant case, it is stated in the reply that the petitioner has not been regularly appointed. Further as per the Proviso, he is not holding the same designation and at the request of the petitioner, he has been transferred to Social Welfare Department, but the designation is changed, therefore, the past services rendered by the petitioner in Family Planning Department have not been counted as per the Circular.

The petitioner is aggrieved to the extent to get the benefit of transfer from the Family Planning Department to Social Welfare Department in view of the circular but challenged the definition clause the term 'same post' and in the considered view, as already specified in the circular, 'same post' means post carrying the same designation and pay scale. Here the petitioner is not holding the same designation, therefore, the benefit was denied for counting past service of the petitioner for the purposes of granting selection scale with effect from his initial appointment i.e 18.11.68 and were counted from the year

1972, when the petitioner was transferred to the Social Welfare Department.

Thus, I find no illegality in not counting the earlier services rendered by the petitioner for the purposes of granting selection scale in view of the circular.

Consequently, the writ petition fails being devoid of merit and the same is hereby dismissed.

(K.S. RATHORE),J.

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